

*MENA-OECD INVESTMENT PROGRAMME*

**REINFORCING INFRASTRUCTURE  
DEVELOPMENT IN IRAQ**

**Fifth Meeting of the Working Group  
on Infrastructure Finance in Iraq**

**FINAL DECLARATION AND ACTION PLAN**

Istanbul, 21-22 November 2011



# FINAL DECLARATION

Pursuant to the mandate approved at the 21 November 2009 conference on infrastructure finance held in Baghdad, and the action plans approved at the first four meetings of the Government of Iraq (GoI) Working Group on Infrastructure Finance, a fifth meeting of the Working Group was held in Istanbul, Turkey, on 21-22 November 2011.

**The overall mission** of the Working Group, which was established by the GoI at the request of the Baghdad Conference and with the support of the MENA-OECD Investment Programme, is to:

- (1) Assist the Government of Iraq in accessing extra-budgetary sources of finance for essential projects that would be delayed or shelved if they depended solely on government revenue,
- (2) Render budgetary funds that are available for infrastructure more effective by helping to combine them with private capital and the associated technical expertise, and
- (3) Identify the regulatory and institutional framework most likely to facilitate private sector involvement in infrastructure finance, drawing on OECD tools and principles and other sources.

**Its specific objectives** are as follows:

- (1) Strengthen coordination efforts at the central level to enhance government capacity for defining and implementing priority infrastructure projects, including:
  - (a) Reinforced laws and regulations for the procurement of services, and management and leasing contracts, as well as more advanced forms of public-private partnerships (PPP) in the medium-term, and the institutional capacities to support them; and
  - (b) The design of appropriate training programmes on the comparative merits of public-private partnerships and classic procurement, and on PPP implementation, for GoI officials and relevant private sector representatives;
- (2) Support confidence building measures targeting potential private sector investors, including full implementation of the 2006 investment law as amended, facilitating access to land, adherence to international trade and investment agreements and arbitration facilities (WTO, ICSID, New York Convention, FTAs, BITs), and other forms of investment protection;
- (3) Make recommendations on priority infrastructure needs in Iraq and appropriate financing mechanisms;
- (4) Identify issues and obstacles associated with the most applicable financing mechanisms and make recommendations to address these issues;
- (5) Identify high priority infrastructure projects based on an OECD methodology and assist GoI officials in preparing PPP configurations or development bank loan applications and recommending implementation to the Government of Iraq.

The fifth meeting of the Working Group included high-level representatives from the Office of the Iraqi Deputy Prime Minister for Infrastructure, the Iraqi National Investment Commission, and four Iraqi ministries, as well as representatives from the MENA-OECD Investment Programme and the Islamic Development Bank, infrastructure project consultants from Denmark, the United States, the United Kingdom and Jordan, and other international experts. Representatives of the Overseas Private Investment Corporation (OPIC) and the MENA Infrastructure Fund also provided input.

**Members of the Working Group noted that:**

1. Since the creation of the Working Group, a list of infrastructure projects provided by the participating ministries had been subject to a preliminary ranking on the basis of a methodology developed by MENA-OECD. This methodology incorporated criteria such as national development strategy, priority infrastructure sectors, basic service provision, social and environmental impact, trade facilitation, and transfer of technology;
2. Six of the projects highlighted by the preliminary ranking had been selected for in-depth case study, and work had subsequently focused on four. They were: the construction of a third train for associated gas treatment in the North Gas Complex (Ministry of Oil), a series of abattoirs (slaughterhouses) (Ministry of Municipalities), the Grand Fao Port project of the Ministry of Transportation [with OPIC involvement], and the residential complexes of the Ministry of Construction and Housing;
3. Six expert groups – one for each of the six priority projects – had been created, and members had donated time to an email, audio/video conference and meeting-based dialogue intended to assist GoI officials in preparing credible PPP proposals or development bank loan applications.
4. The Islamic Development Bank had agreed to provide \$100,000 in feasibility study grant funding for the Ministry of Agriculture project and members called on the ministry to move as rapidly as possible to select a recognised international consultant to conduct the feasibility study. The MENA-OECD Investment Programme will advise on this process.
5. The MENA-OECD Investment Programme had engaged four international consultants to draft feasibility study terms of reference for three projects (associated gas, abattoirs, residential complexes) and a presentation document targeting potential investors for the remaining project (Grand Fao Port). This work was carried out in close collaboration with the ministries and the expert groups, and drafts were presented at the meeting for feedback and finalisation. The MENA-OECD Investment Programme will continue to advise the GoI on these projects.
6. A recurring theme of expert advice within the Working Group had been the critical importance of investment protection measures anchored deeply in the broader regulatory and institutional environment for successful project finance arrangements.

**The Fifth meeting of the Working Group recommended:**

1. A reorientation of Working Group efforts to focus, in the context of a given infrastructure project, on the regulatory and institutional reforms that would increase the level of investment protection in Iraq and make the project more attractive to potential private investors. This would involve:
  - (a) The selection of projects to undergo investment protection assessments leading to policy reform recommendations – these could be projects already considered by the Working Group or new projects. The ministries involved in the Working Group of which the projects were not initially identified as top priority will be asked to submit brief (4-5 page) descriptions of new projects for possible selection;
  - (b) A detailed assessment of each project, in collaboration with the GoI, UNDP Iraq, and other international organizations, partners and experts, with the objective of identifying options for increased investment protection via legislative and institutional PPP frameworks, via adherence to additional international trade and investment agreements and arbitration facilities, and via enhanced intellectual property rights, among other mechanisms; and
  - (c) The presentation of the assessments and their recommendations to an enlarged Working Group that would include representatives of all relevant GoI agencies.

2. The establishment of a mechanism for cooperation between the Working Group and the Iraqi Governorates to assist them in presenting investment projects, based on their priorities, to potential sponsors, in collaboration with the MENA-OECD Investment Programme.
3. Further work on feasibility study terms of reference and/or project presentation documents for new projects or projects that were not initially given priority by the Working Group.
4. Further strengthening of efforts by GoI ministries and governorates to provide detailed information on priority infrastructure projects (whether already under consideration or new) within the framework of investment protection assessments, and the drafting of feasibility study terms of reference and/or project presentation documents, with the goal of implementing at least one early success story in terms of investment protection policy reform;
5. The organization of the sixth meeting of the Working Group in March or April of 2012 with the objective of reviewing progress achieved by GoI ministries, *pro bono* experts and remunerated consultants, and the MENA-OECD Secretariat on the investment protection assessments for a first selection of infrastructure projects. Specific issues to be covered by these assessments, and on which ministries will be asked to provide data, include:
  - Legislative and institutional mechanisms to enable PPP arrangements in the sector of the project.
  - Adherence to and enforcement of international trade and investment agreements.
  - Local and international arbitration provisions and their enforcement in the relevant sector.
  - Intellectual property rights and their enforcement in the relevant sector.
  - Laws and regulations specific to the sector of the project.
  - Eminent domain and related compensation.

## **ACTION PLAN**

### **Expert Group on the Grand Fao Port:**

The expert group makes the following recommendations, subject to the feedback of the ministry representative, who was unable to attend:

- That the Government of Iraq consider special enabling legislation for the Grand Fao project, including public-private partnership (PPP) provisions.
- That the investment law review currently being undertaken by the National Investment Commission at the request of the GoI should focus on reforms that would facilitate private sector finance of the Grand Fao project.
- That the MENA-OECD Investment Programme undertake a study of investment protection measures relevant to the Grand Fao project and recommend improvements that would make the project more attractive to potential private investors.

### **Expert Group on Abattoirs:**

The expert group makes the following recommendations, subject to the feedback of the ministry representative, who was unable to attend:

- That the scope of the feasibility study be limited by the removal of matters related to PPP, since the project will be based on development bank funding and classic procurement (no private investment).

- That the consultant responsible for the study be identified through a six-week tender process.
- That the study be completed by 30 June 2012.
- That a request for \$70,000 in feasibility study grant funding be submitted to the Islamic Development Bank.

**Expert Group on Residential Complexes:**

The expert group makes the following recommendations:

- That the OECD consultant adapt the terms of reference based on the information provided during the meeting by 5 December 2011.
- That the OECD assist the GoI in identifying potential sources of funding for an international standard feasibility study.
- That the GoI launch (by February 2012) the tender process for an international standard feasibility study on the basis of a PPP scheme and the ministry methodology.
- That the MENA-OECD Investment Programme undertake a study of investment protection measures relevant to the residential complexes project and recommend improvements that would make the project more attractive to potential private investors.

**Expert Group on a Third Train for Associated Gas Treatment in the North Gas Complex:**

The expert group makes the following recommendations:

- That the Ministry of Oil move as rapidly as possible, via competitive tender, to select a recognised international consultant to conduct the feasibility study based on the terms of reference and with the support of the MENA-OECD Investment Programme, the United States Embassy in Iraq, and local and international consultants.
- That the OECD assist the GoI in identifying potential sources of funding for an international standard feasibility study.